

\*E-FILED 10/8/08\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

STANFORD HOSPITAL & CLINICS et al.,

NO. C 07-5158 JF (RS)

Petitioners,

v.

SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 715. et al.,

**ORDER GRANTING IN PART  
AND DENYING IN PART  
PETITIONERS' MOTIONS TO  
COMPEL: (1) DISCOVERY  
RESPONSES, AND (2)  
DEPOSITIONS**

Respondent.

AND ALL RELATED CASES

I. INTRODUCTION

Petitioners Stanford Hospital and Clinics and Lucile Packard Children's Hospital (collectively "the hospitals") move to compel discovery responses from Service Employees International Union, Local 715 ("Local 715") and non-parties Service Employees International Union, Local 521 ("Local 521"), Service Employees International Union, United Healthcare Workers – West ("UHW") (collectively "the unions"), and to compel the depositions of Bruce W. "Rusty" Smith, and non-parties Kristy Sermersheim, and Myriam Escamilla.<sup>1</sup> Local 715 opposes the motions. At the hearing on September 24, 2008 on these motions, the Court instructed the parties to

<sup>1</sup> The four motions at issue are the hospitals' motion to compel: (1) further responses to discovery requests propounded to Local 715; (2) responses to discovery subpoena propounded to UHW; (3) responses to subpoena propounded to Local 521; and (4) depositions of Smith, Sermersheim, and Escamilla.

1 meet and confer further to attempt to resolve the discovery disputes at issue. Both parties were  
 2 ordered to file a separate supplemental report addressing the remaining issues. Each party filed a  
 3 separate report that reflects some narrowing of disputed issues but with certain disputes remaining  
 4 unresolved.<sup>2</sup> As to those matters, as set forth below, the hospitals' motions to compel will be granted  
 5 in part and denied in part.

## 6 II. DISCUSSION

7 Despite narrowing the issues in dispute, outstanding issues remain regarding: (1) the  
 8 temporal scope of the document requests; (2) the production of the unions' budgets; (3) the  
 9 production of documents relating to the unions' websites; (4) production of documents relating to  
 10 legal representation provided by the law firm of Weinberg Roger & Rosenfeld ("WRR"); (5) and  
 11 production of documents relating to Local 715's relationships with other union locals and employers.

### 12 A. Temporal Scope of Document Requests

13 The hospitals seek a number of documents from June 30 or July 1, 2005 (request numbers 2-  
 14 8, 28-33, 37, 39), or January 2006 (request numbers 10, 14, 17, 20, 40-42, 48-55), or January 2007  
 15 (request numbers 9, 11-13, 15-16, 21, 34-36, 38). Local 715 argues that the time frame of the  
 16 discovery requests should be limited to after October 9, 2007, because it was on that date that  
 17 Stanford Hospital filed a petition before an administrative law judge of the National Labor Relations  
 18 Board allegedly conceding that Local 715 was a labor organization. Local 715 also suggests January  
 19 20, 2006, as an alternative limiting date, which is the effective date of the collective bargaining  
 20 agreement.  
 21

22 Under Fed. R. Civ. P. 26(b)(1), parties may obtain discovery of any nonprivileged matter that  
 23 is relevant to any party's claims or defenses, or "for good cause," discovery of any matter relevant to  
 24 the subject matter involved in the action. Fed. R. Civ. P. 26(b)(1). Because the collective

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25 <sup>2</sup> The hospitals filed a fifth motion to compel seeking the deposition of non-party Greg  
 26 Pullman, an employee of Service Employees International Union ("SEIU"). As indicated at the  
 27 hearing, because the hospitals have made significant progress toward securing voluntary compliance  
 28 from SEIU, the Court indicated it was inclined to dismiss this motion without prejudice. In their  
 supplemental report, the hospitals do not oppose such a disposition. That motion, therefore, is  
 dismissed without prejudice. The remaining four motions to compel still are in dispute.

1 bargaining agreement presumably developed over time, the extra six month window going back to  
2 July 1, 2005, is reasonably calculated to cover relevant time periods and is not unduly burdensome.  
3 The remaining dates requested by the hospitals similarly cover a time period reasonably expected to  
4 lead to relevant evidence and the unions therefore shall respond to the document requests in the time  
5 frame designated therein unless modified below.

6 B. Budgetary Document Requests

7 The hospitals seek documents in response to request numbers 34-36, which pertain to the  
8 annual or other budgets prepared by the unions, and request number 40, which relates to bank  
9 records for Local 715. At the hearing the unions suggested it would produce documents related to  
10 any portion of the budget that references either Local 715 or Stanford Hospital. The unions'  
11 limitation, however, could exclude responsive documents that do not specifically name Stanford  
12 Hospital or Local 715 but are otherwise responsive. The unions, therefore, will produce documents  
13 reflecting those portions of the budgets that pertain or relate to the hospitals or the representation of  
14 employees of the hospitals. The unions further request that UHW's budget for 2008 be excluded  
15 because UHW recently won a secret ballot election and therefore the production of such information  
16 could unfairly impact the bargaining relationship between the parties. While such material may  
17 relate to sensitive issues of representation, they appear to be relevant to the matters in controversy,  
18 and should be produced. Finally, the unions seek to limit request number 40 to dues payments  
19 received by employers such as Stanford Hospital, Stanford University, and Santa Clara University,  
20 instead of every single financial transaction. As opposed to request numbers 34-36, where a  
21 limitation to specific names could result in the exclusion of responsive documents, such a limitation  
22 here is warranted because relevant dues payments presumably would carry the name of the particular  
23 involved entity. Accordingly, production of documents in response to number 40 shall be modified  
24 as requested by the unions.

25 C. Website Document Requests

26 The hospitals seek documents in response to request numbers 12-14, which request  
27 documents relating to UHW's website. The unions maintain that complying with this request is  
28 burdensome because the website frequently changes. At the hearing, the Court expressed concern

1 that frequent changes to the website possibly could be burdensome and instructed the unions to  
2 report how frequently such changes were made. In their supplemental report, the unions still had no  
3 clear answer, but declared that it would inform the Court by October 1, 2008. That date has passed,  
4 and without a clear picture of how often the website was changed or updated, the hospitals' request is  
5 granted as it is currently written.

6 D. WRR Document Requests

7 The hospitals seek documents in response to request number 20 relating to WRR's  
8 representation of Local 715. The hospitals acknowledge that they are not seeking documents or  
9 portions of documents containing legal advice, but rather are seeking documents pertaining to  
10 whether Local 715 retained WRR or whether UHW retained the firm pursuant to a servicing  
11 agreement. The unions insist that it would be extremely burdensome for its single trustee to compile  
12 every document that relates to anything WRR did for Local 715 from January 2006 to the present,  
13 including WRR's representation on behalf of Local 715 in any litigation, grievance proceeding,  
14 arbitration, or administrative hearing whether related to the hospitals or not. Instead, the unions are  
15 willing to produce all documents and writings related to the grievances at issue in this matter.  
16 Despite the unions' arguments to the contrary, limiting the hospitals to the few grievances at issue  
17 would fail to provide the hospitals with an overall picture of what persons or organization was  
18 retaining WRR in its provision of legal services to Local 715 relating to the its operational status.  
19 Therefore, the unions shall respond to request number 20.

20 E. Documents Relating to Relationships with Union Locals and Employers

21 The hospitals seek documents in response to request numbers 48-55 that pertain to the  
22 relationships between Local 715 and Stanford University and Santa Clara University — two  
23 employers whose employees Local 715 allegedly represented. Again, the unions contend that for  
24 their single trustee to compile every responsive document would be extremely burdensome. A bare  
25 allegation of burden without more information as to the number of documents that exist or estimated  
26 to exist does not suffice to exempt the unions from their discovery obligations. These documents  
27 may be relevant because they may reflect the status of Local 715. Finally, the assertion that these  
28

1 requests should be denied because they do not contain a timeline is without merit. Each request has  
2 a specific time period beginning in January 2006.

3  
4 F. Depositions of Smith, Sermersheim, and Escamilla

5 The unions do not oppose the hospitals' plan to take the depositions of Smith, Sermersheim,  
6 and Escamilla. The unions note that the parties will meet and confer to schedule the depositions to  
7 take place before October 31, 2008. The hospitals seek a date certain for the deposition to occur no  
8 later than October 31, 2008. Consequently, the motion is granted, and the depositions of Smith,  
9 Sermersheim, and Escamilla shall be noticed and held within twenty days of the date of this order.

10 III. CONCLUSION

11 The hospitals' motions to compel are granted in part and denied in part as follows:

12 (1) The unions shall produce documents covering the time periods commencing on July 1,  
13 2005, for request numbers 2-8, 28-33, 37, 39, January 2006 for request numbers 10, 14, 17, 20, 40-  
14 42, 48-55, and January 2007 for request numbers 9, 11-13, 15-16, 21, 34-36, 38, unless modified  
15 below.

16 (2) In response to request numbers 34-36, the unions shall produce information on those  
17 portions of their budgets that pertain or relate to the hospitals or the representation of employees of  
18 the hospitals. The unions shall produce budget information for the time period including 2008.

19 (3) Request number 40 is granted in part and denied in part, in that it is limited to dues  
20 payments designated from members employed by Stanford Hospital, Stanford University, and Santa  
21 Clara University.

22 (4) Request numbers 12-14, which request documents relating to UHW's website, is granted  
23 as presented.

24 (5) In response to request number 20 relating to WRR's representation of Local 715, the  
25 unions shall compile documents related to anything WRR did for Local 715 from January 2006 to  
26 the present which includes WRR's representation on behalf of Local 715 in any litigation, grievance  
27 proceeding, arbitration, and/or administrative hearing whether specifically related to the hospitals or  
28 not.

(6) Request numbers 48-55, which seek documents that pertain to the relationships between Local 715 and Stanford University and Santa Clara University are granted.

(7) The unions shall make their supplemental responses within ten days of the date of this order.

(8) The depositions of Smith, Sermersheim, and Escamilla shall be noticed and held within twenty days of the date of this order.

(9) The deposition of Pullman is dismissed without prejudice as described in footnote two.

IT IS SO ORDERED.

Dated: October 8, 2008

  
RICHARD SEEBORG  
United States Magistrate Judge

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C 07-5158 JF (RS)

**THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:**

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the Court's CM/ECF program.

**Dated: 10/8/08**

**Richard W. Wieking, Clerk**

**By: Chambers**

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